

**REMARKS/ARGUMENTS**

Claims 1-30 are pending in the application.

The specification has been amended on page 10 to correct the spelling of "HEMA."

Claim 3, 4, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3, 4 and 15 have been amended. Reconsideration and withdrawal of the rejection under 35 U.S.C. 112, second paragraph, is respectfully requested.

Claims 1-4, 8, and 27-30 are rejected under 35 U.S.C 102 (b) as being anticipated by Turley (U.S. 4,892,543). Claims 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. 4,704,123). Claims 1,2,5-13, and 16-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Guilbert et al. (FR 2 728 459 A1). Claims 3,4,14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guilbert et al. (FR 2 728 459 A1). Applicant respectfully traverses the Examiner's rejections and requests reconsideration of the application.

***Anticipation Rejection under 35 U.S.C. § 102(b) - Turley (U.S. 4,892,543)***

Claims 1-30 are pending in the application. Claims 1-4, 8, and 27-30 are rejected under 35 U.S.C 102 (b) as being anticipated by Turley (U.S. 4,892,543). Applicant disagrees with this contention and respectfully requests reconsideration.

The Turley reference teaches a first optical component 42 having a substantially fixed refractive power and a second optical component 44 having a variable refractive power. The lens of the Turley reference requires two separate refractive elements 42 & 44 working in concert to correct refractive error. As shown in Figs. 2 – 6 of the Turley Reference, and as stated in Column 3, lines 43-46, the second optic component includes a "flat forward circular surface 62." Furthermore, claim 1 states that the lens includes "a first optical means having a first refractive power" and a "second optical means having a variable refractive power." Additionally, claim 8 states that a first optical means has a "substantially fixed refractive power" and a second optical means with a "variable refractive power." Thus, the Turley

reference discloses a first optical element with a refractive surface (being made of some material) and a second optical element having another refractive power.

Applicant's invention is distinguishable from the Turley lens. Unlike the Turley lens, Applicant utilizes "an optic sized and configured to engage in an edge portion of said frame opening." Also, apparent dissimilarities are that Applicant's lens claims a frame on which is mounted an optic defining a "generally circular opening between inner portions of said haptic." In contrast, the Turley lens has a "flat forward circular surface 62." The surface of the Turley lens is not an opening in a frame. Furthermore, the optic of Applicant's lens is "configured to engage in an edge portion" of the frame opening. The Turley lens does not have an optic configured to engage in an edge portion of a frame opening. The Turley reference, therefore, does not teach, disclose or otherwise make obvious the lens of Claim 1. Additionally, each claim depending from Claim 1 is not taught, disclosed or otherwise made obvious by the Turley reference.

Additionally, with respect to claims 27 and 30, the Turley reference does not teach, among other elements, a web extending between the frame members. Variable component 44 of the Turley lens does not have "a web being secured to and extending between said frame members and having thereon an optic." The Turley reference, therefore, does not teach, disclose or otherwise make obvious the lens of Claim 27. Additionally, each claim depending from Claim 27 is not taught, disclosed or otherwise made obvious by the Turley reference.

Applicant contends that the Turley reference does not anticipate Claims 1-4, 8, and 27-30. Reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection based on the Turley reference is therefore respectfully requested.

***Anticipation Rejection under 35 U.S.C. § 102(b) - Smith (U.S. 4,704,123)***

Claims 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith (U.S. 4,704,123). Applicant disagrees with this contention and respectfully requests reconsideration.

Applicant respectfully requests that the Examiner provide guidance as to why the Examiner believes Claims 27-29 are anticipated by Smith. The Smith lens is directed to a lens having a fenestrated (windowed) haptic. The Smith reference does not teach, discuss,

anticipate or otherwise make obvious a “pair of relatively rigid spaced-apart frame members” and a “web secured to and extending between said frame members and having thereon an optic.” Reconsideration and withdrawal of the 35 U.S.C. § 102(b) rejection based on the Smith reference is therefore respectfully requested.

***Anticipation Rejection under 35 U.S.C. § 102(b) – Guilbert et al. (FR 2 728 459 A1) and Obviousness Rejection under 35 U.S.C. § 103(a) – Guilbert et al. (FR 2 728 459 A1)***

Claims 1,2,5-13, and 16-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Guilbert et al. (FR 2 728 459 A1). Applicant disagrees with this contention and respectfully requests reconsideration.

With respect to Claim 1 and 12, each of these claims require oppositely extending haptics. The Guilbert lens does not have oppositely extending haptics, but instead the Guilbert lens has an inner ring member 30 and an outer ring member 29. The outer ring member is not the same or an equivalent structure as oppositely extending haptics. Indeed, Applicant’s lens with rigid oppositely extending haptics provides increased depth of focus with the optic positioned posteriorly along the axis of the eye. Additionally therefore, each claim depending from Claims 1 and 12 is not taught, disclosed or otherwise made obvious by the Guilbert reference.

With respect to Claim 27, the Guilbert lens does not teach or otherwise make obvious a “pair” of relatively rigid frame members with a web secured to and extending from the frame members. The Guilbert reference instead teaches a support in the form of a double **ring**. The inner ring member 30 and outer ring member 29 are not the same or equivalent structures as a “pair” or relatively rigid frame members with a web secured to and extending from the frame members. Each claim depending from Claim 24, therefore, is not taught, disclosed or otherwise made obvious by the Guilbert reference.

Claims 3, 4, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guilbert et al. (FR 2 728 459 A1). Applicant disagrees with this contention and respectfully requests reconsideration. As discussed above independent claims 1 and 12 are by themselves non-obvious in light of Guilbert. As such claims 3, 4, 14 and 15 are not obvious. In determining obviousness, “the inquiry is not whether each element existed in the prior art, but whether the prior art made obvious the invention as a whole for which patentability is claimed. *See Harntess International, Inc. v. Simplimatic Engineering Co.*,

819 F.2d 1100, 2USPQ2d 1826 (Fed. Cir. 1987); *See also Panduit Corp v. Dennison Mfg. Co.*, 810 F.2d 1561, 1576 n.36, 1 USPQ2d 1593, 1604 n.36 (Fed. Cir. 1987).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Please charge any shortage or credit, any overpayment of fees, or any petition fee to the standing account of Fulbright and Jaworski, L.L.P., Account Number 06-2375, under Order Number 10026570. If a Petition for Extension of Time to Reply is required, and such petition and the associated fee do not accompany this letter (or are deficient), this statement serves as the Petition and authorization for fee payment.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**Version with markings to show changes made.**"

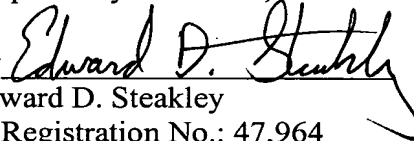
The undersigned is available for telephone consultation at any time during normal business hours, if the Examiner believes that such consultation would expedite the prosecution of the application.

Dated:

11-19-01

Respectfully submitted,

By



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**Version With Markings to Show Changes Made**

3. (once amended) An assembly according to Claim [3] 1, wherein the optic is about 1.0 mm in thickness.

4. (once amended) An assembly according to Claim [3] 1, wherein the optic has a thickness between 0.5 mm and 1.5 mm.

15. (once amended) An assembly according to Claim 13, wherein the optic has a thickness between [1.5] 0.5 mm and 1.5 mm.